

BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF
SAN FRANCISCO, SAN PABLO, AND SUISUN

EXPRESS TERMS

Title 7, Harbors and Navigation
Division 2. State Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo and Suisun

The proposed amendments to existing text are shown in underline to indicate additions and strikeout to show deletions. All other text remains unchanged.

Amend Section 202 of Title 7, California Code of Regulations to read as follows:

§ 202. Other Definitions.

- (a) “719K form” means the Application for Medical Certificate, Form CG-719K (04/17), which is hereby incorporated by reference, issued by the U.S. Department of Homeland Security, U.S. Coast Guard.
- (b) “Bays of San Francisco, San Pablo, and Suisun” means all the waters of those bays and of the tributaries, ports and harbors of those bays, and includes the water areas from the south end of San Francisco Bay and from the Ports of Sacramento and Stockton to the Golden Gate Bridge.
- (c) “Board-appointed physician” means a physician who has been appointed by the Board as either an examining physician or a Medical Review Officer.
- (d) “Certificate of completion” means the certificate given by the Board to a pilot trainee notifying the trainee that he or she has successfully completed the training program.
- (e) “Chemical test” means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.
- (f) “Conflict of interest code” means those provisions in Section 222 which define conflicts of interest for licensees of the Board.
- (g) “Conflict of interest code of the Board” means those provisions in Section 212.5 which define conflicts of interest for designated employees of the Board.
- (h) “Dangerous drug” means a narcotic drug, a controlled substance, marihuana, or a controlled substance analogue (as defined in Section 102 of the federal Comprehensive Drug Abuse and Control Act of 1970 (Title 21, U.S. Code, Section 802)).
- (i) “Examining physician” means a physician who meets the eligibility requirements of Section 217.45(b) and has been appointed by the Board to perform the duties of an examining physician that are set forth in these regulations.
- (j) “Executive Director” means the individual appointed by the Board pursuant to Section 211.
- (k) “Fails a chemical test for dangerous drugs” means that the result of a chemical test conducted in accordance with Title 49, Code of Federal Regulations, Part 40 is verified as “positive” for the presence of dangerous drugs or drug metabolites in an individual's system and reported in accordance with that part.

(l) “Fitness evaluation” means an evaluation by Board-appointed physicians to determine whether pilot trainees and pilots are mentally and physically fit to perform their duties. A fitness evaluation may but does not necessarily include the “medical assessment” described in Section 217.15.

(m) “FRMS” means fatigue risk management system.

~~(n)~~(n) “Investigator” means a person employed by or under contract with the Board and assigned to investigate a navigational incident involving a vessel piloted by a pilot licensed by the Board, or any other matter for which a pilot's license may be revoked or suspended pursuant to these regulations, including a possible conflict of interest as set forth in Section 222, or to investigate reports of suspected pilot ladder or pilot hoist safety violations.

~~(o)~~(o) “Medical assessment” means the comprehensive physical and medical evaluation process described in Section 217.15.

~~(p)~~(p) “Medical Review Officer” means a physician who meets the eligibility requirements of Section 217.45(c) and has been appointed by the Board to perform the duties of a Medical Review Officer that are set forth in these regulations.

~~(q)~~(q) “Merchant Mariner Medical Manual” means CIM 16721.48 Merchant Mariner Medical Manual (08/19), issued by the U.S. Coast Guard, herein incorporated by reference.

~~(r)~~(r) “Monterey Bay” means all the waters of that bay and of the tributaries, ports and harbors of that bay.

~~(s)~~(s) “Pilot” means an individual licensed as a pilot by the Board.

~~(t)~~(t) “Pilot Evaluation Committee” means the committee appointed by the Board pursuant to Section 209.

~~(u)~~(u) “Pilot trainee” or “trainee” means a person who is training as a pilot in the pilot trainee training program established by the Board.

~~(v)~~(v) “Pilotage grounds” means all waters extending eastward from the precautionary area surrounding buoy SF to, and including, the Bays of San Francisco, San Pablo and Suisun, and also includes the waters of Monterey Bay, eastward of a straight line drawn between Point Santa Cruz Light and Point Pinos Light.

~~(w)~~(w) “Portable Pilot Unit” means a portable, computer-based system that a pilot brings on board a vessel to use as a decision/support tool for navigating in confined waters.

~~(x)~~(x) “Port Agent” means the individual identified in Section 218.

~~(y)~~(y) “Serious Marine Incident” means an event or events that meet the definition of “Serious Marine Incident” under Title 46, Code of Federal Regulations, Section 4.03-2.

~~(z)~~(z) “Training program” or “Program” means the standards and procedures for training pilots and pilot trainees adopted by the Board as contained in Sections 214 and 215.

Note: Authority cited: Section 1154, Harbors and Navigation Code. Reference: Sections 1101(e), 1101(h), 1110, 1113, 1114, 1114.5, 1154, 1156, 1156.5, 1156.6, 1170.3, 1171.5, 1176, 1176.5, 1180, 1180.3, ~~and~~ 1181, and 1196.5, Harbors and Navigation Code; Title 21, U.S. Code, Section 802; Title 46, Code of Federal Regulations, Sections 4.03-2, 97.90-1 and 108.719, subparts 163.002 and 163.003, and Part 16; and Title 49, Code of Federal Regulations, Part 40.

Amend Section 210 of Title 7, California Code of Regulations to read as follows:

§ 210. Incident Review Process.

(a) The President shall appoint an Incident Review Committee with the responsibility of investigating and reporting to the Board all reports of misconduct or navigational incidents involving a vessel piloted by a pilot or inland pilot licensed by the Board, or any other matter for which a pilot's or inland pilot's license may be revoked or suspended pursuant to these regulations, including a possible conflict of interest as set forth in Section 222, and reports of suspected pilot ladder or pilot hoist safety violations. The Incident Review Committee shall be composed of one public member of the Board and the Executive Director. This subsection does not apply to an incident involving a pilot or inland pilot aboard a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(b) The Incident Review Committee shall investigate the incident, misconduct or other matter and prepare a written report as provided for in subsection (c).

(1) The Incident Review Committee may use investigators, call witnesses and obtain additional information as it considers necessary to complete its investigation. In performing their duties, the members of the Incident Review Committee and the investigators shall act fairly and impartially and shall treat all matters developed or obtained as required by law.

(2) The members of the Incident Review Committee and the investigators shall not discuss any investigation with the Board or any member of the Board who is not on the committee until the results of the investigation are reported to the full Board.

(3) If the Incident Review Committee upon initial investigation finds there is clearly no pilot error, the Committee shall discontinue the investigation and report its findings to the Board.

(c) The written report developed by the Incident Review Committee relating to the incident, misconduct or other matter shall include but need not be limited to:

(1) The name of the vessel, time, date and location of the incident and identification of the pilot or inland pilot.

(2) A description of the weather and sea conditions.

(3) An illustration and description of the incident, misconduct or other matter under investigation.

(4) An estimate of damages, if any.

(5) The names of witnesses providing information relating to the incident, misconduct or other matter under investigation.

(6) The nature and extent of any injuries.

(7) A summary of the investigations of any prior incidents, misconduct or other matters involving the pilot or inland pilot, or, if investigating reports of suspected pilot ladder or pilot hoist safety violations, a summary of the investigations of any prior such violation reports involving the same vessel, vessel owner or operator.

(8) Any relevant correspondence or records from the U.S. Coast Guard relating to the incident, misconduct or other matter under investigation.

(9) A historical record of the actions taken in the investigation and any action taken in response to the investigation.

(10) A summary of the factual background of the incident, misconduct or other matter under investigation.

(11) The following information shall be included in the report but shall not be part of the public record:

(A) The report from the pilot or inland pilot.

(B) The confidential report of the investigator.

(12) An assessment of whether fatigue contributed to the incident.

(d) Following the conclusion of the investigation the Incident Review Committee shall report its findings and recommendations to the Board at the Board's next regular meeting. The written report shall

be presented within 90 days of the date of the incident, misconduct or other matter being investigated, unless an extension is granted by the Board.

(e) Upon presentation of the written report of the Incident Review Committee at the Board meeting, and after the Board's full consideration of the evidence, including any additional evidence presented by the pilot or inland pilot and the Incident Review Committee, the Board shall take one or more of the following actions:

- (1) Order an accusation for suspension or revocation of the pilot's or inland pilot's license be prepared, filed and served.
 - (2) Either by Board decision or by entry into a written stipulation with the pilot or inland pilot terminating the matter on such terms and conditions as the Board considers acceptable, requiring compliance with any recommended remedial training or study, supervised practice trips or participation in the training of pilots and pilot trainees. Any such stipulation shall be approved in writing by the Board and by the pilot or inland pilot. A stipulation may provide that it may be referred to following a finding of fault in any subsequent accusation brought against the same pilot or inland pilot for the purpose of considering an appropriate sanction. A written stipulation may not, however, be used for any purpose more than five years after the date of its execution.
 - (3) Provide counseling for the pilot or inland pilot relating to his or her duties and obligations.
 - (4) Issue a warning letter of reprimand to the pilot or inland pilot.
 - (5) Take any other action, as provided in the guidelines in this section.
 - (6) Remand the matter to the Incident Review Committee for further investigation on such terms as the Board may direct.
 - (7) Close the matter without further action.
- (f) Action shall be taken by the Board under subsection (e) of this regulation by a majority of those members present and voting.
- (g) Concerning any corrective action and whether to go outside the guidelines in this section, both the Incident Review Committee, in making its recommendation, and the Board, in making its determination, shall consider the following factors:
- (1) The severity of the misconduct.
 - (2) The danger to the public.
 - (3) The number and frequency of prior incidents involving pilot error.
 - (4) The nature and extent of any injuries, property damage or harm to the environment resulting from the incident.
 - (5) The length of time the pilot or inland pilot has been licensed.
 - (6) Prior corrective action imposed upon the pilot or inland pilot.
 - (7) The degree to which the proposed action is likely to prevent recurrence.
 - (8) The effect of the proposed action upon the pilot's or inland pilot's livelihood.
 - (9) Corrective action already taken by the pilot or inland pilot relative to the incident under consideration.
 - (10) The degree of negligence of the pilot or inland pilot.
 - (11) Any other mitigating or aggravating circumstances deemed pertinent by the Incident Review Committee or the Board.

(h) In determining the appropriate action to be taken for certain specific types of misconduct, the following guidelines shall apply:

- (1) Under the influence of illegal drugs while on duty: Filing an accusation recommending revocation of license.

- (2) Under the influence of alcohol while on duty: First offense -filing an accusation recommending suspension of license (6-12 months) and mandatory participation in a rehabilitation program approved by the Substance Abuse and Mental Health Services Administration, Second offense -filing an accusation recommending revocation of license.
- (3) Refusal to provide specimens required for timely drug and alcohol testing upon being directed by the Port Agent pursuant to the requirements of Section 218: Filing an accusation recommending suspension of license (6-12 months).
- (4) Failure to comply with federal, state or local navigation laws or regulations: From a minimum of reprimand to a maximum of filing an accusation recommending suspension of license (1-3 months).
- (5) Negligently performing duties related to vessel navigation: From a minimum of reprimand to a maximum of filing an accusation recommending suspension of license (2-6 months).
- (6) Neglect of vessel navigation duties: From a minimum of reprimand to a maximum of filing an accusation recommending suspension of license (3-6 months).
- (7) Failure to file a written report on a maritime incident in a timely fashion: From a minimum of reprimand to a maximum of filing an accusation recommending suspension of license (2-4 months).
- These guidelines are intended to guide the Incident Review Committee in developing its recommendations for corrective action and the Board in determining the appropriate action to be taken and to promote uniformity in assessing the severity of specific types of misconduct, although it is recognized that the circumstances of any individual case may warrant action that falls outside the ranges provided above.
- (i) The record of the investigation and final disposition of the incident, misconduct or other matter shall be retained in the Board's records for 10 years, or as long as the pilot is licensed by the Board, whichever is longer, after the completion of the investigation and, except for the items listed in paragraph 11 of subsection (c), shall be a public record. Records of prior incidents more than 10 years old shall not be used in aggravation in determining corrective action unless the pilot or inland pilot raises such incident for mitigation.
- (j) The Board may order the reconsideration of all or part of a determination made pursuant to this section on its own motion or on petition of any party. The power to order a reconsideration shall expire 60 days after the Board's written decision is delivered or mailed to the pilot or inland pilot, or on the date set by the Board as the effective date of the determination if that date occurs prior to the expiration of the 60-day period or at the termination of a stay not to exceed 60 days which the Board may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, the Board may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.
- (k) No member of the Board shall sit on the Board as a trier of fact for those cases where he or she has served on the Incident Review Committee recommending action to the Board.
- (l) The Executive Director shall maintain a suspense file to ensure that all training, practice trips, or other corrective action required to be performed by a pilot or inland pilot, by stipulation or Board decision, are completed as required. The Executive Director shall report to the Board each month on the progress of any ongoing training, practice trips or other corrective action. The Executive Director shall notify the Board of any pilot that fails or refuses to complete the terms of a stipulated resolution or final decision after an accusation.

Note: Authority cited: Sections 1154 and 1180.6(e), Harbors and Navigation Code. Reference: Sections 1154, 1156.5, 1156.6, 1180.3, 1180.6, 1181, ~~and~~ 1184, and 1196.5, Harbors and Navigation Code.

Amend Section 214 of Title 7, California Code of Regulations to read as follows:

§ 214. Pilot Trainee Training Program.

(a) In order to be considered for licensing as a pilot, a pilot trainee must successfully complete the training program conducted and supervised by the Pilot Evaluation Committee for the Board. The Board shall issue a certificate of completion to a pilot trainee only when it determines that the trainee has successfully completed the pilot trainee training program. The Board may rely upon, but shall not be bound by the recommendations of its Pilot Evaluation Committee in determining whether a trainee has successfully completed the training program or whether or when the trainee should be licensed as a pilot. The Board is not required to license an individual as a pilot at any time after issuance of the certificate of completion authorized by this subsection. If a license is issued, it shall be issued to the most qualified trainee who has successfully completed the training program. Order of completion of the program is not the determining factor.

(b) The training program prescribed herein shall include the following topics:

- (1) area geography;
- (2) port and waterway configuration;
- (3) hydrography (channel depths and widths, bottom configuration);
- (4) hydrology and hydraulics;
- (5) tides and currents;
- (6) winds and weather;
- (7) aids to navigation (interaction with and information they convey);
- (8) bottom composition;
- (9) marine facilities;
- (10) other traffic and operations (including commercial fishing vessels, recreational boating, dredging and marine regattas);
- (11) air draft (for bridges and overhead wires);
- (12) communications;
- (13) applicable laws, rules and regulations;
- (14) marine traffic regulation (including Vessel Traffic Service);
- (15) local and seasonal traffic patterns and densities;
- (16) ship maneuvering behavior for all vessel types to be piloted including hydrodynamic interactions with respect to other vessels, facilities and channel bathymetry;
- (17) advantages, limitations and effect on shiphandling of various types of main propulsion and auxiliary maneuvering machinery;
- (18) shiphandling for piloting, anchoring, docking and undocking, maneuvering with and without the aid of tugs and emergency situations;
- (19) tug control (for maneuvering assistance);
- (20) use of ground tackle to aid maneuvering;
- (21) navigation systems (traditional and electronic);
- (22) radar systems (manual and automated); and
- (23) marine and environmental safety requirements;

(24) The causes and hazards of fatigue, the means of avoiding or alleviating fatigue, the responsibility of pilots and trainees to ensure that they are rested prior to an assignment, the need for a sufficient recovery period after awakening, and the duty of pilots and trainees to refuse an assignment if they are too fatigued to complete an assignment safely.

(c) The training program for each pilot trainee shall consist of a minimum of one year and a maximum of three years of training. The program may include classroom training and training provided by outside contractors and shall include assignments to ride as an observer on tugs engaged in ship assist work. In addition, the program shall include a minimum of 300 trips while under the direct supervision of a pilot or inland pilot, riding as observer or maneuvering vessels of various sizes and classes on the Bays of San Francisco, San Pablo and Suisun. A minimum of 50 trips shall be with members of the Pilot Evaluation Committee and at least 10 of those trips shall be within the last three months before the committee recommendation that the trainee be issued a certificate of completion. Pilot trainee assignments shall be under the general supervision of the Pilot Evaluation Committee and may be made by the Port Agent, his or her designee, or a member of the Pilot Evaluation Committee.

(d) A stipend, funded by a pilot trainee surcharge to pilotage rates, may be paid to pilot trainees. The amount of the stipend, if any, paid to a pilot trainee shall be determined solely by the Board, provided that trainees at similar phases of the program shall receive an equal stipend, if any stipend is given.

(e) A pilot or inland pilot supervising a pilot trainee shall prepare an evaluation report on the performance of the pilot trainee to the Pilot Evaluation Committee at the times and in the manner prescribed by the Committee.

(f) The Board may dismiss a pilot trainee from the training program at any time during the first year of training without cause. After the first year of training, a pilot trainee may be dismissed from the training program if the Board, after a hearing comparable to that provided to a public employee under Government Code § 11126(a), determines that he or she:

- (1) no longer meets the requirements of Section 213;
- (2) has violated the Code or these regulations;
- (3) has failed to carry out the terms and conditions of the training program;
- (4) has willfully disobeyed a lawful order of the Board, the Pilot Evaluation Committee, the Port Agent, his or designee or the pilot supervising his or her training;
- (5) committed an act of misconduct while on duty as a trainee;
- (6) was intoxicated or under the influence of a substance which appreciably impaired his or her ability to conduct the duties of a pilot trainee while on duty as a trainee;
- (7) failed to meet the conditions of probation within the period prescribed, if placed on probation under subsection (g) of this section; or
- (8) failed a chemical test for dangerous drugs, as defined in Section 202.

(g) A pilot trainee may, on such conditions and for such period of time as the Board may impose, be suspended from the training program or be placed on probation if the Board determines that such action is warranted because of:

- (1) a change in the mental or physical health or good moral character of the pilot trainee;
- (2) a lapse, suspension or revocation of the trainee's U. S. Coast Guard license;
- (3) misconduct while on duty as a trainee; or
- (4) inadequate performance in the training program.

(h) In determining whether a pilot trainee has successfully completed the training program or whether the trainee should be licensed as a pilot, the Board and Pilot Evaluation Committee shall consider whether the trainee has met each of the following:

- (1) All statutory prerequisites for being licensed as a pilot;
- (2) Maintained an average score of at least 4.0 on a 5.0 scale on the evaluations by members of the Pilot Evaluation Committee during each of the last three (3) months immediately preceding the Committee's recommendations; and
- (3) Has adequately demonstrated:
 - (A) local knowledge for the Bays of San Francisco, San Pablo and Suisun, including:
 1. limits of all local pilotage areas;
 2. names, positions and characteristics of all buoys, beacons, lights, markers, fog signals and other fixed aids to navigation;
 3. names, locations and characteristics of all channels, shoals, headlands and points;
 4. names, locations, characteristics and vertical clearances of all bridges, cables and other overhead obstructions to navigation;
 5. depths of water;
 6. set, rate, rise and duration of tides, characteristics of tidal currents, and use of tide tables and real time tide data collection system;
 7. courses and distances for each channel;
 8. names, locations and characteristics of anchorages;
 9. names, locations and waterside characteristics of all berths, terminals and docking facilities; and
 10. systems of radio navigational warning broadcasts and the type of information likely to be included.
 - (B) a working knowledge of the fundamentals of shiphandling, including:
 1. shiphandling in piloting waters;
 2. anchoring;
 3. docking and undocking;
 4. appropriate use of tugs;
 5. shiphandling in emergency situations; and
 6. appropriate vessel speed control.
 - (C) bridge presence, including proper and timely handling of all shipboard communications using standard terminology;
 - (D) proper and timely handling of communications with other vessels, Vessel Traffic Service and other entities external to the vessel;
 - (E) situational awareness, contingency planning and the ability to keep the vessel on track;
 - (F) appropriate and timely use of bridge equipment, including shipboard navigation and collision avoidance aids, and knowledge of their capabilities and limitations;
 - (G) appropriate response to vessel traffic;
 - (H) familiarity with maneuvering characteristics of all types of ships that routinely enter the pilotage grounds, including knowledge of capabilities and limitations of typical propulsion and steering systems on board such vessels;
 - (I) understanding environmental factors affecting ship performance, such as wind, current, tide, channel configuration, water depth, bottom, bank and ship interaction including squat;
 - (J) familiarity with bridge team management, including master-pilot relationship;
 - (K) familiarity with all relevant international, national, state and local laws and regulations applicable to navigational safety, rules of the road, pollution prevention, and contingency planning;
 - (L) familiarity with lines of communication to local authorities, including the U.S. Coast Guard, U.S. Army Corps of Engineers, State Office of Oil Spill Prevention and Response and the Board.
 - (M) familiarity with personal techniques for survival at sea and personal safety, including emergency

first aid, cardio-pulmonary resuscitation (CPR) and hypothermia remediation; and
(N) consistency of acceptable performance.

Note: Authority cited: Section 1154, Harbors and Navigation Code. Reference: Sections 1101(e),
1114.5, 1171.5, 1175, 1177, ~~and~~1178, and 1196.5, Harbors and Navigation Code.

Amend Section 215 of Title 7, California Code of Regulations to read as follows:

§ 215. Pilot Training.

(a) Every pilot must complete the training program established by this section. The Board may revoke or suspend the license of a pilot if he or she fails to successfully complete the training program during the period specified by the Board.

(b) The training program for each pilot shall consist of two parts:

(1) Attend a manned scale model shiphandling course at least five days in length once every five years which provides realistic experience with maneuvering characteristics of major commercial vessel types that routinely transit the waters under the Board's jurisdiction and under harbor and approach conditions that replicate those that are found in the San Francisco Bay Area; and

(2) Attend a combination course at least five days in length completed at least once every five years covering at least the following topics:

(A) Bridge resource management for pilots;

(B) Shiphandling on a computer driven ship's bridge simulator including emergency maneuvering and shiphandling in close quarters;

(C) Emergency medical response;

(D) Advanced electronic navigation systems;

(E) The causes and hazards of fatigue, the means of avoiding or alleviating fatigue, the responsibility of pilots to ensure that they are rested prior to an assignment, the need for a sufficient recovery period after awakening, and effective strategies to prevent fatigue while on duty~~the duty of pilots to refuse an assignment if they are too fatigued to complete an assignment safely;~~

(F) Radar navigation in low visibility/restricted waters; and

(G) Regulatory review.

(c) The Executive Director shall prepare and maintain a list naming each pilot who is to attend the required training courses during the following twelve months, and the dates of such attendance. The list shall be provided to the Port Agent monthly, who shall notify the pilots on the list.

Note: Authority cited: Sections 1154 and 1171.5, Harbors and Navigation Code. Reference: Sections 1144, 1171.5(a), 1171.5(b), ~~and~~1171.5(c), and 1196.5, Harbors and Navigation Code.

Add Section 218.1 to Title 7, California Code of Regulations to read as follows:

§ 218.1. Fatigue Risk Management.

(a) This section implements section 1196.5 of the Code, which requires the Board to evaluate factors that contribute to pilot fatigue and to adopt regulations that will prevent pilot fatigue and thereby ensure the safe operation of vessels.

(b) The Port Agent shall prepare and submit to the Board for review and approval a fatigue risk management system. The FRMS proposed by the Port Agent shall be developed to ensure that the

operations of the ~~San Francisco Bar Pilots~~ pilots support effective rest opportunities and fatigue mitigation measures. The FRMS shall include the specific restrictions on work hours and rest periods mandated by this section. The FRMS shall also include the additional elements specified in this section. Subject to Board approval, the content of these elements is committed in the first instance to the Port Agent. Requiring initial development of the FRMS by the Port Agent is based on the premise that the Port Agent is most familiar with the day-to-day operations of the pilots and is well situated to evaluate what fatigue-management measures will or won't work in the context of what the pilots do and how they do it.

(c) Pilots are limited to a maximum work period of 14 hours. A work period starts at the time a pilot would need to report to San Francisco Bar Pilots headquarters to begin an assignment and ends at the time a pilot, having completed the last of one or more assignments, would arrive back at San Francisco Bar Pilots headquarters. The Port Agent may include in the FRMS a maximum work period less than 14 hours, stating the rationale for the shorter work period. The Port Agent shall report monthly in writing to the Board instances of work periods in excess of 12 hours.

(d) Pilots are limited to a maximum night work period of 12 hours without a rest opportunity on the offshore station boat between assignments. ~~The FRMS shall set forth the definition of rest opportunity, which shall be subject to Board approval. In reviewing the FRMS under subsection (j), the Board shall approve this definition if it determines that the definition is reasonably designed to contribute to the prevention of pilot fatigue.~~ A night work period is any work period that includes all or any portion of the hours between 0000 and 0600. The Port Agent may include in the FRMS a maximum night work period less than 12 hours, stating the rationale for the shorter night work period. The Port Agent shall report monthly in writing to the Board instances of night work periods in excess of 10 hours without a rest opportunity on the offshore station boat between assignments.

(e) Pilots are limited to a maximum of 18 night-time hours worked in any 72-hour period. A night-time hour is any whole or partial hour worked between 0000 and 0600. If a pilot has reached the 18-hour limit, the Port Agent shall not assign that pilot to work in any night work period that would include a night-time hour worked prior to 0800 of the calendar day next following the calendar day on which the 18-hour limit was reached. The Port Agent may include in the FRMS a limit lower than 18 hours of night-time hours worked in any 72-hour period, stating the rationale for the lower limit. The Port Agent shall report monthly in writing to the Board the number of assignments made in which a pilot was assigned to work in a night work period that included a night-time hour worked prior 0800 of the calendar day next following the calendar day on which the 18-hour limit was reached.

(f) Pilots are limited to a maximum of 15 consecutive days of being available for assignment. The Port Agent may include in the FRMS a protocol for providing pilots who are available for assignment for 14 or 15 consecutive days ~~a rest break~~ ~~an extended rest period greater than the minimum 10-hour rest period required by subsection (g)~~ at or around the midpoint of the 14- or 15-day period, stating the rationale for the protocol.

(g) ~~A rest period is the period between work periods, as defined in subsection (c).~~ The minimum rest period for pilots between work periods is 10 hours. The Port Agent shall report monthly in writing to the Board the number and duration of rest periods of less than 12 hours.

(h) Concerning each of the requirements set forth in subsections (c) through (g), circumstances may arise upon or adjacent to waters under the Board's jurisdiction that pose an immediate threat of harm to persons, property, vessels, or the marine environment. When, in the opinion of the Port Agent, there is reasonable cause to believe that the risk of harm to persons, property, vessels, or the marine environment exceeds the risks associated with (1) extending work periods, (2) making assignments exceeding the

limits on night-time hours, (3) extending the number of consecutive days pilots are available for assignment, or (4) authorizing exceptions to the minimum rest period, the Port Agent may depart from the limitations set forth in subsections (c) through (g). For each such departure, the Port Agent shall report monthly in writing to the Board the fact of the departure and the circumstances and reasons therefor.

(i) The Port Agent shall include the following elements in the FRMS:

(1) A plan regarding assignment of pilots that minimizes disruption of their recovery rest periods.

(2) Minimum advance notice to the ~~San Francisco Bay Pilots~~Port Agent by those ordering pilot services, thereby increasing the predictability of pilot schedules.

(3) A plan to use various measures to increase the number of pilots available to provide pilotage at any given time.

(4) A plan to educate pilots on the importance of reporting fatigue and pausing their availability for assignment when they are significantly fatigued.

(5) Measures to mitigate pilot fatigue occasioned by long-distance travel to and from mandated training.

The Port Agent shall consider:

(A) Delaying a pilot's return to piloting assignments following travel.

(B) A travel mode that would minimize the number of travel segments, minimize total travel time, and enhance rest opportunities.

(6) Any other elements that the Port Agent believes will further the objective of preventing pilot fatigue and thereby ensuring the safe operation of vessels.

(j) The Port Agent shall submit the FRMS to the Board for review and approval not later than 60 days after the effective date of this section. The Port Agent shall submit the FRMS to the Board for review and reapproval one year after the initial approval, every 24 months thereafter, and whenever the Port Agent makes substantive changes to the FRMS. If the Board determines that the FRMS complies with the provisions of this section, it shall approve the FRMS. Concerning the mandatory elements required by subsection (i), the Board shall approve each element if it determines that the element is reasonably designed to contribute to the prevention of pilot fatigue. Any future proposed change in the FRMS shall be approved by the Board if the Board determines that the proposed change is reasonably designed to contribute to the prevention of pilot fatigue.

Note: Authority cited: Sections 1144, 1154, and 1196.5(b), Harbors and Navigation Code. Reference: Sections 1144 and 1196.5, Harbors and Navigation Code.

Amend Section 220 of Title 7, California Code of Regulations to read as follows:

§ 220. Duties of Pilot Trainees.

(a) A pilot trainee shall obey all regulations of the Board.

(b) A pilot trainee absent from his or her duties without permission is liable to suspension and forfeiture of stipend, if any, for the period of absence. A pilot trainee may not be absent from duty for more than 30 consecutive days without obtaining a leave of absence from the Board, unless such absence is caused by the pilot trainee's sickness or personal injury, in which case a leave of absence from the Board shall be obtained if the absence extends for more than 60 days.

(c) A pilot trainee shall not perform any duties of a pilot trainee while intoxicated or under the influence of any substance or combination of substances which so affects the pilot trainee's nervous system, brain

or muscles as to impair, to an appreciable degree, the pilot trainee's ability to properly perform his or her duties.

(d) A pilot trainee shall not, through ignorance, willfulness or neglect, cause a vessel to run on shore or to become exposed to liability for damage to persons or property, or otherwise cause injury or damage to persons, property or the marine environment during the performance of his or her duties as a pilot trainee.

(e) A pilot trainee shall always obey the applicable Rules of the Road for the navigation of vessels and shall, under all circumstances, perform his or her duties in a manner which does not endanger persons, property or the marine environment or cause damage, injury or loss of life.

(f) A pilot trainee shall obey all lawful instructions and directives given to him or her, or to pilot trainees in general, by the Pilot Evaluation Committee or by any member of such Committee, the Port Agent or his or her designee.

(g) A pilot trainee, when notified to report in person to the Board, shall report as directed in the notification.

(h) A pilot trainee shall only train on vessels assigned to him or her by the Port Agent, his or her designee or a member of the Pilot Evaluation Committee.

(i) A pilot trainee shall keep his or her current address and residence telephone number on file with the Board by submitting the required information to the Administrative Assistant/Secretary in a timely fashion.

(j) While engaged in any pilot trainee activity, a pilot trainee shall obey all applicable laws and conduct himself or herself so as not to cause injury or damage to persons, property or the marine environment.

(k) Any pilot trainee who fails a chemical test for dangerous drugs, as defined in Section 202, shall be immediately suspended from further training and, if, after a hearing held pursuant to subsection (f) of Section 214, the Board determines that the trainee failed a chemical test for dangerous drugs, the trainee shall be dismissed from the training program.

(l) A pilot trainee shall familiarize himself or herself with the work-hour limitations and rest-period requirements applicable to pilots and shall be guided by these limitations and requirements in scheduling training trips on vessels.

Note: Authority cited: Sections 1154 and 1196.5, Harbors and Navigation Code. Reference: Sections 1100, 1101(c), 1101(e), 1101(f), ~~and~~ 1171.5, and 1196.5, Harbors and Navigation Code.